

1/21/99 3:03:41 PM

Page 1

1999 DRAFTING REQUEST**Bill**Received: **01/7/99**Received By: **nilsepe**Wanted: **As time permits**

Identical to LRB:

For: **David Brandemuehl (608) 266-1170**

By/Representing:

This file may be shown to any legislator: **NO**Drafter: **nilsepe**

May Contact:

Alt. Drafters:

Subject: **Transportation - miscellaneous**Extra Copies: **TNF, ISR****Topic:**

Transferring IFTA and IRP appeals from division of hearings and appeals to the tax appeals commission

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nilsepe 01/7/99	chanaman 01/13/99		_____			
/1	nilsepe 01/20/99	chanaman 01/20/99	lpaasch 01/13/99	_____	lrb_docadmin 01/13/99		
/2	gretskl 01/21/99		hhagen 01/21/99	_____	lrb_docadmin 01/21/99	lrb_docadmin 01/21/99	

FE Sent For:

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Not
Needed

1/21/99 10:13:23 AM
Page 1

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Not Needed

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1997 ASSEMBLY BILL 752

1999 Bill

-1648/1

PEN:
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jlg

January 27, 1998 - Introduced by Representative BRANDEMUEHL, by request of Department of Transportation. Referred to Committee on Highways and Transportation.

- repeal*
- 1 **AN ACT to renumber** 85.013 (2) and 341.43; **to amend** 73.01 (4) (a), 73.01 (4) (e)
- 2 1., 73.01 (4) (e) 2., 73.01 (5) (a) and 341.43 (title); **to repeal and recreate** 73.01
- 3 (4) (a) and 73.01 (5) (a); and **to create** 85.013 (2) (b) and 341.43 (2) of the
- 4 statutes; **relating to:** transferring appeals of certain determinations of the
- 5 department of transportation from the division of hearings and appeals to the
- 6 tax appeals commission.

DOHA

Analysis by the Legislative Reference Bureau

Under current law, determinations of the department of transportation (DOT) may be appealed to the division of hearings and appeals attached to the department of administration, if the determination is one that entails a right to a hearing.

This bill transfers from the division of hearings and appeals to the tax appeals commission appeals of any final DOT determinations that concern the international registration plan (under which an eligible vehicle owner registers his or her vehicle for all states traveled in, instead of registering the vehicle in each of those states) or that concern a motor vehicle fuel or alternate fuel use tax, including determinations under a fuel tax agreement (under which fuel taxes imposed by a state are

(DOHA)
20 22

ASSEMBLY BILL 752

apportioned to the states in which the vehicle was operated). The bill creates a 30-day time limit for filing these appeals.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 73.01 (4) (a) of the statutes is amended to read:

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64, 70.995 (8), 76.38 (12) (a), 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, 341.405 and 341.45, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), or the department of transportation and the adverse party agreeing to an affirmance, modification or reversal of the department's department of revenue's or department of transportation's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department of revenue or the department of transportation without the approval of the commission.

SECTION 2. 73.01 (4) (a) of the statutes, as affected by 1997 Wisconsin Act 359, section 10, and 1997 Wisconsin Act 359, is repealed and recreated to read:

ASSEMBLY BILL 752

~~73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405 and 341.45, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), or by the department of transportation and the adverse party agreeing to an affirmance, modification or reversal of the department of revenue's or department of transportation's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department of revenue or the department of transportation without the approval of the commission.~~

~~X~~
SECTION 3. 73.01 (4) (e) 1. of the statutes is amended to read:

proof w/ PHB
73.01 (4) (e) 1. Except ~~for~~ ^X hearings on ss. 341.405 and 341.45 ^{X ✓} and except as provided in subd. 2., the department of revenue shall be deemed to acquiesce in the construction so adopted unless the department of revenue seeks review of the order or decision of the commission so construing the statute. For purposes of this subdivision, the department of revenue has sought review of the order or decision if it seeks review and later settles the case or withdraws its petition for review or if the

ASSEMBLY BILL 752

SECTION 3

1 merits of the case are for other reasons not determined by judicial review. The
2 construction so acquiesced in shall thereafter be followed by the department of
3 revenue.

4 **SECTION 4.** 73.01 (4) (e) 2. of the statutes is amended to read:

5 73.01 (4) (e) 2. The Except for hearings on ss. 341.405 and 341.45, the
6 department of revenue may choose not to appeal and to nonacquiesce in the decision
7 or order by sending a notice of nonacquiescence to the clerk of the commission, to the
8 revisor of statutes for publication in the Wisconsin administrative register and to the
9 taxpayer or the taxpayer's representative before the time expires for seeking a
10 review of the decision or order under s. 73.015. The effect of this action is that,
11 although the decision or order is binding on the parties for the instant case, the
12 commission's conclusions of law, the rationale and construction of statutes in the
13 instant case are not binding upon or required to be followed by the department of
14 revenue in other cases.

15 **SECTION 5.** 73.01 (5) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
16 section 2354, is amended to read:

17 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
18 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)
19 or who has filed a petition for redetermination with the department of revenue and
20 who is aggrieved by the redetermination of the department of revenue may, within
21 60 days of the determination of the state board of assessors or of the department of
22 revenue or, in all other cases, within 60 days after the redetermination but not
23 thereafter, file with the clerk of the commission a petition for review of the action of
24 the department of revenue and the number of copies of the petition required by rule
25 adopted by the commission. Any person who is aggrieved by a determination of the

ASSEMBLY BILL 752

1 department of transportation under s. 341.405 or 341.45 may, within 30 days after
2 the determination of the department of transportation, file with the clerk of the
3 commission a petition for review of the action of the department of transportation
4 and the number of copies required by rule adopted by the commission. If a
5 municipality appeals, its appeal shall set forth that the appeal has been authorized
6 by an order or resolution of its governing body and the appeal shall be verified by a
7 member of that governing body as pleadings in courts of record are verified. The clerk
8 of the commission shall transmit one copy to the department of revenue, or to the
9 department of transportation, and to each party. In the case of appeals from
10 manufacturing property assessments, the person assessed shall be a party to a
11 proceeding initiated by a municipality. At the time of filing the petition, the
12 petitioner shall pay to the commission a \$25 filing fee. The commission shall deposit
13 the fee in the general fund. Within 30 days after such transmission the department
14 of revenue, except for petitions objecting to manufacturing property assessments, or
15 the department of transportation, shall file with the clerk of the commission an
16 original and the number of copies of an answer to the petition required by rule
17 adopted by the commission and shall serve one copy on the petitioner or the
18 petitioner's attorney or agent. Within 30 days after service of the answer, the
19 petitioner may file and serve a reply in the same manner as the petition is filed. Any
20 person entitled to be heard by the commission under s. 76.38 (12) (a), 76.39 (4) (c),
21 76.48 or 76.91 may file a petition with the commission within the time and in the
22 manner provided for the filing of petitions in income or franchise tax cases. Such
23 papers may be served as a circuit court summons is served or by certified mail. For
24 the purposes of this subsection, a petition for review is considered timely filed if

ASSEMBLY BILL 752

SECTION 5

1 mailed by certified mail in a properly addressed envelope, with postage duly prepaid,
2 which envelope is postmarked before midnight of the last day for filing.

3 **SECTION 6.** 73.01 (5) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
4 section 2355, and 1997 Wisconsin Act (this act), is repealed and recreated to read:

5 **73.01 (5) (a)** Any person who is aggrieved by a determination of the state board
6 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)
7 or who has filed a petition for redetermination with the department of revenue and
8 who is aggrieved by the redetermination of the department of revenue may, within
9 60 days of the determination of the state board of assessors or of the department of
10 revenue or, in all other cases, within 60 days after the redetermination but not
11 thereafter, file with the clerk of the commission a petition for review of the action of
12 the department of revenue and the number of copies of the petition required by rule
13 adopted by the commission. Any person who is aggrieved by a determination of the
14 department of transportation under s. 341.405 or 341.45 may, within 30 days after
15 the determination of the department of transportation, file with the clerk of the
16 commission a petition for review of the action of the department of transportation
17 and the number of copies required by rule adopted by the commission. If a
18 municipality appeals, its appeal shall set forth that the appeal has been authorized
19 by an order or resolution of its governing body and the appeal shall be verified by a
20 member of that governing body as pleadings in courts of record are verified. The clerk
21 of the commission shall transmit one copy to the department of revenue, or to the
22 department of transportation, and to each party. In the case of appeals from
23 manufacturing property assessments, the person assessed shall be a party to a
24 proceeding initiated by a municipality. At the time of filing the petition, the
25 petitioner shall pay to the commission a \$25 filing fee. The commission shall deposit

ASSEMBLY BILL 752

1 the fee in the general fund. Within 30 days after such transmission the department
2 of revenue, except for petitions objecting to manufacturing property assessments, or
3 the department of transportation, shall file with the clerk of the commission an
4 original and the number of copies of an answer to the petition required by rule
5 adopted by the commission and shall serve one copy on the petitioner or the
6 petitioner's attorney or agent. Within 30 days after service of the answer, the
7 petitioner may file and serve a reply in the same manner as the petition is filed. Any
8 person entitled to be heard by the commission under s. 76.38 (12) (a), 76.39 (4) (c),
9 76.48 or 76.91 may file a petition with the commission within the time and in the
10 manner provided for the filing of petitions in income or franchise tax cases. Such
11 papers may be served as a circuit court summons is served or by certified mail. For
12 the purposes of this subsection, a petition for review is considered timely filed if
13 mailed by certified mail in a properly addressed envelope, with postage duly prepaid,
14 which envelope is postmarked before midnight of the last day for filing.

15 **SECTION 7.** 85.013 (2) of the statutes is renumbered 85.013 (2) (a).

16 **SECTION 8.** 85.013 (2) (b) of the statutes is created to read:

17 85.013 (2) (b) Any hearing under s. 227.42 shall be held before the tax appeals
18 commission under s. 73.01 if the hearing concerns any of the following:

- 19 1. The international registration plan under s. 341.405.
- 20 2. A fuel tax agreement under s. 341.45.

21 **SECTION 9.** 341.43 (title) of the statutes is amended to read:

22 **341.43 (title) Audits and appeals.**

23 **SECTION 10.** 341.43 of the statutes is renumbered 341.43 (1).

24 **SECTION 11.** 341.43 (2) of the statutes is created to read:

Insert
7-15

proof
of
date.

ASSEMBLY BILL 752

SECTION 11

1 341.43 (2) Any person feeling aggrieved by a notice under this section of
2 additional assessment, refund or denial of refund may, within 30 days after the
3 receipt of the notice, petition the department[✓] for a redetermination. A person feeling
4 aggrieved by a redetermination may appeal to the tax appeals commission in the
5 manner provided for appeals of tax determinations under s. 73.01 (5). If an appeal[✓]
6 of a redetermination is not filed within the time period provided under s. 73.01[✓] (5),
7 the redetermination is final and conclusive.

SECTION 12. Initial applicability.

8
9 (1) This act first applies to appeals that are filed on the effective date of this
10 subsection.[✓]

11 ~~**SECTION 13. Effective dates.** This act takes effect on the day after publication,~~
12 ~~except as follows:~~

13 ~~(1) The repeal and recreation of section 73.01 (4) (a) and (5) (a) of the statutes~~
14 ~~takes effect on May 15, 1998.~~

15 (END)

① Because of ~~the~~ ^{the} tax appeals commission's expertise and specialized knowledge in tax appeals, courts will afford determinations of the tax appeals commission with a higher degree of deference than determinations of ~~the district~~ ~~hearing and appeals~~ DOHA.

② Roehl Transport v. DOHA, 213 Wis.2d 452, 458-59 (1997). no fl

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Section #. 73.01 (4) (a) of the statutes is amended to read:

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341.405 and 341.45

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal of the department's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department without the approval of the commission.

of revenue or the department of transportation

~~History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27.~~

or the department of transportation and the
adverse party

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department of
revenues or
department of
transportation

CS
Section #. 73.01 (5) (a) of the statutes is amended to read:

IN 807
7-15

73.01 (5) (a) Any person who is aggrieved by a determination of the state board of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21) or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department may, within 60 days of the determination of the state board of assessors or of the department of revenue, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$25 filing fee. The commission shall deposit the fee in the general fund. Within 30 days after such transmission the department of revenue except for petitions objecting to manufacturing property assessments, or the department of transportation, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition

scored
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IN 807
7-15
Jan 7 1999 3:56pm

7-15
(cont)

for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27.

(end insert)

~~Representative Brandemuhl:~~

1/19/99

Changes requested by
Allyn Lepeska - DOT OGC
-PEW



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1648/1
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1999 BILL

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- 1 AN ACT *to renumber* 85.013 (2) and 341.43; *to amend* 73.01 (4) (a), 73.01 (4) (e)
2 1., 73.01 (4) (e) 2., 73.01 (5) (a) and 341.43 (title); and *to create* 85.013 (2) (b)
3 and 341.43 (2) of the statutes; **relating to:** transferring appeals of certain
4 determinations of the department of transportation from the division of
5 hearings and appeals to the tax appeals commission.

Analysis by the Legislative Reference Bureau

Under current law, determinations of the department of transportation (DOT) may be appealed to the division of hearings and appeals (DOHA) attached to the department of administration, if the determination is one that entails a right to a hearing.

This bill transfers from DOHA to the tax appeals commission appeals of any final DOT determinations that concern the international registration plan (under which an eligible vehicle owner registers his or her vehicle for all states traveled in, instead of registering the vehicle in each of those states) or that concern a motor vehicle fuel or alternate fuel use tax, including determinations under a fuel tax agreement (under which fuel taxes imposed by a state are apportioned to the states in which the vehicle was operated). Because of the tax appeals commission's expertise and specialized knowledge in tax appeals, courts will afford determinations of the tax appeals commission with a higher degree of deference than

BILL

determinations of DOHA. *Roehl Transport v. DOHA*, 213 Wis. 2d 452, 458–59 (1997). The bill creates a 30–day time limit for filing these appeals.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 73.01 (4) (a) of the statutes is amended to read:

2 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
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5 70.11 (21), 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.
6 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,
7 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 ~~and~~, 139.78, 341.405 and
8 341.45, subch. XIV of ch. 71 and subch. VII of ch. 77. Whenever with respect to a
9 pending appeal there is filed with the commission a stipulation signed by the
10 department of revenue and the adverse party, under s. 73.03 (25), or the department
11 of transportation and the adverse party agreeing to an affirmance, modification or
12 reversal of the department's department of revenue's or department of
13 transportation's position with respect to some or all of the issues raised in the appeal,
14 the commission shall enter an order affirming or modifying in whole or in part, or
15 canceling the assessment appealed from, or allowing in whole or in part or denying
16 the petitioner's refund claim, as the case may be, pursuant to and in accordance with
17 the stipulation filed. No responsibility shall devolve upon the commission,
18 respecting the signing of an order of dismissal as to any pending appeal settled by
19 the department of revenue or the department of transportation without the approval
20 of the commission.

21 **SECTION 2.** 73.01 (4) (e) 1. of the statutes is amended to read:

BILL

1 73.01 (4) (e) 1. Except for hearings on ss. 341.405 and 341.45 and except as
2 provided in subd. 2., the department of revenue shall be deemed to acquiesce in the
3 construction so adopted unless the department of revenue seeks review of the order
4 or decision of the commission so construing the statute. For purposes of this
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6 it seeks review and later settles the case or withdraws its petition for review or if the
7 merits of the case are for other reasons not determined by judicial review. The
8 construction so acquiesced in shall thereafter be followed by the department of
9 revenue.

10 **SECTION 3.** 73.01 (4) (e) 2. of the statutes is amended to read:

11 73.01 (4) (e) 2. The Except for hearings on ss. 341.405 and 341.45, the
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13 or order by sending a notice of nonacquiescence to the clerk of the commission, to the
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16 review of the decision or order under s. 73.015. The effect of this action is that,
17 although the decision or order is binding on the parties for the instant case, the
18 commission's conclusions of law, the rationale and construction of statutes in the
19 instant case are not binding upon or required to be followed by the department of
20 revenue in other cases.

21 **SECTION 4.** 73.01 (5) (a) of the statutes is amended to read:

22 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
23 of assessors under s. 70.995 (8) or by the department of revenue under s. 70.11 (21)
24 or who has filed a petition for redetermination with the department of revenue and
25 who is aggrieved by the redetermination of the department of revenue may, within

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1 60 days of the determination of the state board of assessors or of the department of
2 revenue or, in all other cases, within 60 days after the redetermination but not
3 thereafter, file with the clerk of the commission a petition for review of the action of
4 the department of revenue and the number of copies of the petition required by rule
5 adopted by the commission. Any person who is aggrieved by a determination of the
6 department of transportation under s. 341.405 or 341.45 may, within 30 days after
7 the determination of the department of transportation, file with the clerk of the
8 commission a petition for review of the action of the department of transportation
9 and the number of copies of the petition required by rule adopted by the commission.

10 If a municipality appeals, its appeal shall set forth that the appeal has been
11 authorized by an order or resolution of its governing body and the appeal shall be
12 verified by a member of that governing body as pleadings in courts of record are
13 verified. The clerk of the commission shall transmit one copy to the department of
14 revenue, or to the department of transportation, and to each party. In the case of
15 appeals from manufacturing property assessments, the person assessed shall be a
16 party to a proceeding initiated by a municipality. At the time of filing the petition,
17 the petitioner shall pay to the commission a \$25 filing fee. The commission shall
18 deposit the fee in the general fund. Within 30 days after such transmission the
19 department of revenue, except for petitions objecting to manufacturing property
20 assessments, or the department of transportation, shall file with the clerk of the
21 commission an original and the number of copies of an answer to the petition
22 required by rule adopted by the commission and shall serve one copy on the petitioner
23 or the petitioner's attorney or agent. Within 30 days after service of the answer, the
24 petitioner may file and serve a reply in the same manner as the petition is filed. Any
25 person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or

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1 s. 76.39 (4) (c), 76.48 or 76.91 may file a petition with the commission within the time
2 and in the manner provided for the filing of petitions in income or franchise tax cases.
3 Such papers may be served as a circuit court summons is served or by certified mail.
4 For the purposes of this subsection, a petition for review is considered timely filed
5 if mailed by certified mail in a properly addressed envelope, with postage duly
6 prepaid, which envelope is postmarked before midnight of the last day for filing.

7 **SECTION 5.** 85.013 (2) of the statutes is renumbered 85.013 (2) (a).

8 **SECTION 6.** 85.013 (2) (b) of the statutes is created to read:

9 85.013 (2) (b) Any hearing under s. 227.42 shall be held before the tax appeals
10 commission under s. 73.01 if the hearing concerns ^{an additional assessment, refund} any of the following: ^{or denial of}
11 1. The international registration plan under s. 341.405. ^{refund under}

12 2. A fuel tax agreement under s. 341.45.

13 **SECTION 7.** 341.43 (title) of the statutes is amended to read:

14 **341.43 (title) Audits and appeals.**

15 **SECTION 8.** 341.43 of the statutes is renumbered 341.43 (1).

16 **SECTION 9.** 341.43 (2) of the statutes is created to read:

17 341.43 (2) Any person feeling aggrieved by a notice under this section of
18 additional assessment, refund or denial of refund may, within 30 days after the
19 receipt of the notice, petition the department for a redetermination. A person feeling
20 aggrieved by a redetermination may appeal to the tax appeals commission in the
21 manner provided for appeals of tax determinations under s. 73.01 (5). If an appeal
22 of a redetermination is not filed within the time period provided under s. 73.01 (5),
23 the redetermination is final and conclusive.

24 **SECTION 10. Initial applicability.**

SECTION 10

3 (END)

SUBMITTAL FORM

LEGISLATIVE REFERENCE BUREAU Legal Section Telephone: 266-3561 5th Floor, 100 N. Hamilton Street

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 1/21/99

To: Representative Brandemuehl

Relating to LRB drafting number: LRB-1648

Topic

Transferring IFTA and IRP appeals from division of hearings and appeals to the tax appeals commission

Subject(s)

Transportation - miscellaneous

1. **JACKET** the draft for introduction Brandemuehl
in the **Senate** ____ or the **Assembly** ☒ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached ____
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction Brandemuehl.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Paul E. Nilsen, Legislative Attorney
Telephone: (608) 261-6926

not needed